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SENATE BILL 659

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE LAW STUDENT LOAN FOR SERVICE ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the "Law Student Loan for Service Act".

Section 2. PURPOSE. -- The purpose of the Law Student Loan for Service Act is to address the shortage of legal services available to rural and indigent New Mexico residents by providing law students with the financial means to complete their law school education.

Section 3. DEFINITIONS. -- As used in the Law Student Loan for Service Act:

A. "commission" means the commission on higher education;

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1 B. "law school program" means a program that has
2 been formally approved as meeting one of the requirements of
3 the supreme court of New Mexico to practice law in New Mexico;

4 C. "loan" means a payment of money under contract
5 between the commission and a student that defrays the costs
6 incidental to a law school program offered in a regionally
7 accredited educational institution in New Mexico and that
8 requires repayment in services;

9 D. "pro bono legal services organization" means a
10 nongovernmental, nonprofit entity providing legal
11 representation to New Mexico residents without charging a fee
12 for such representation. The taxation and revenue department
13 shall promulgate rules establishing guidelines for the
14 designation of such entities; and

15 E. "student" means a United States citizen who is
16 enrolled in or accepted by a graduate law school program at a
17 regionally accredited post-secondary educational institution in
18 New Mexico.

19 Section 4. LAW STUDENT LOANS AUTHORIZED--
20 QUALIFICATIONS.--

21 A. The commission may grant a loan to a student
22 deemed qualified by the commission upon such terms and
23 conditions as may be imposed by rule of the commission.

24 B. The commission shall only receive, pass upon and
25 allow or disallow an application for a loan made by a student

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1 who declares an intent to serve as an attorney in a pro bono
2 legal services organization.

3 C. The commission shall make a full and careful
4 investigation of the ability and qualifications of each
5 applicant to become a recipient of a loan. The commission
6 shall give preference to qualified applicants who demonstrate
7 financial need.

8 Section 5. DELEGATION OF DUTIES TO OTHER STATE
9 AGENCIES. --The commission may arrange with other state agencies
10 for the performance of services required by the provisions of
11 Section 4 of the Law Student Loan for Service Act.

12 Section 6. LAW STUDENT LOANS--CONTRACT TERMS--
13 REPAYMENT. --

14 A. Each applicant who is approved for a loan by the
15 commission may be granted a loan in such amounts and for such
16 periods as the commission determines. The loan shall not
17 exceed the necessary expenses incurred while attending a law
18 school program.

19 B. A loan shall bear interest at the rate of:

20 (1) eighteen percent per year if the loan
21 recipient completes a law school program and no portion of the
22 principal and interest is forgiven pursuant to Subsection F of
23 this section; or

24 (2) seven percent per year in all other cases.

25 C. Loans made pursuant to the Law Student Loan for

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1 Service Act shall not accrue interest until:

2 (1) the commission determines the loan
3 recipient has terminated the recipient's law school program
4 prior to completion; or

5 (2) the commission determines the loan
6 recipient has failed to fulfill the recipient's obligation to
7 practice as an attorney in a pro bono legal services
8 organization in New Mexico.

9 D. The loan shall be evidenced by a contract
10 between the loan recipient and the commission acting on behalf
11 of the state. The contract shall provide for the payment by
12 the state of a stated sum covering the costs of a law school
13 program and shall be conditioned on the repayment of the loan
14 to the state over a period established by the commission after
15 the completion of the law school program.

16 E. A loan made to a recipient who fails to complete
17 a law school program shall become due immediately upon
18 termination of the recipient's law school program. The
19 commission, in consultation with the loan recipient, shall
20 establish terms of repayment, alternate service or cancellation
21 terms.

22 F. The contract shall provide that the commission
23 shall forgive a portion of the loan for each year that the loan
24 recipient practices law as an attorney in a pro bono legal
25 services organization in New Mexico. The loan shall be

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1 forgiven as follows:

2 (1) loan terms of one year shall require one
3 year of practice. Upon completion of service, one hundred
4 percent of the loan shall be forgiven;

5 (2) loan terms of two years shall require one
6 year of practice for each year of the loan. Upon completion of
7 the first year of service, fifty percent of the loan shall be
8 forgiven. Upon completion of the second year of service, the
9 remainder of the loan shall be forgiven; and

10 (3) for loan terms of three years or more,
11 forty percent of the loan shall be forgiven upon completion of
12 the first year of service, thirty percent of the loan shall be
13 forgiven upon completion of the second year of service and the
14 remainder of the loan shall be forgiven upon completion of the
15 third year of service.

16 G. A loan recipient shall serve a complete year in
17 order to receive credit for that year. The minimum credit for
18 a year shall be established by the commission.

19 H. If a loan recipient completes a law school
20 program and does not practice as an attorney in a pro bono
21 legal services organization in New Mexico, the commission shall
22 assess a penalty of up to three times the principal due, plus
23 eighteen percent interest, unless the commission finds
24 acceptable extenuating circumstances that prevent the loan
25 recipient from serving. If the commission does not find

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1 acceptable extenuating circumstances for the loan recipient's
2 failure to carry out his declared intent to practice, the
3 commission shall require immediate repayment of the loan plus
4 the amount of any penalty assessed pursuant to this section.

5 I. The commission shall adopt and promulgate rules
6 to implement the provisions of this section. The rules may
7 provide for the repayment of loans in annual or other periodic
8 installments.

9 Section 7. ~~CONTRACTS--LEGAL ASSISTANCE--ENFORCEMENT.~~ --The
10 general form of the contract shall be prepared and approved by
11 the attorney general and signed by the loan recipient and a
12 designee of the commission on behalf of the state. The
13 commission is vested with full and complete authority and power
14 to sue in its own name for any balance due the state from a
15 loan recipient on a contract.

16 Section 8. ~~FUND CREATED--METHOD OF PAYMENT.~~ --There is
17 established in the state treasury the "law student loan for
18 service fund" to be administered by the commission. The fund
19 shall consist of money appropriated for loans pursuant to the
20 Law Student Loan for Service Act; earnings from investment of
21 the fund; gifts, grants and donations to the fund; income from
22 investment of the fund; and all payments of principal and
23 interest on loans made pursuant to that act. Money in the fund
24 shall not revert to any other fund at the end of a fiscal year.
25 The fund shall be administered by the commission, and money in

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1 the fund is appropriated to the commission to make loans
2 pursuant to the Law Student Loan for Service Act. All payments
3 of money for loans shall be made on warrants drawn by the
4 secretary of finance and administration pursuant to vouchers
5 signed by the commission's designated representative.

6 Section 9. REPORTS. --The commission shall report annually
7 by January 1 to the governor and the legislature on its
8 activities pursuant to the Law Student Loan for Service Act,
9 including the loans granted, the names and addresses of loan
10 recipients, the law school programs loan recipients are
11 attending, the names of loan recipients and the locations where
12 loan recipients who have completed their law school education
13 are practicing law.

14 Section 10. APPROPRIATION. --One hundred thousand dollars
15 (\$100,000) is appropriated from the general fund to the law
16 student loan for service fund for expenditure in fiscal year
17 2006 and succeeding fiscal years to carry out the provisions of
18 the Law Student Loan for Service Act. Any unexpended or
19 unencumbered balance remaining at the end of a fiscal year
20 shall not revert to the general fund.